

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

TERESA BREITHAUP, LARRY : **CIVIL ACTION NO.** _____
BREITHAUP AND INSURANCE
COMPANY OF THE STATE OF
PENNSYLVANIA

VERSUS : **JUDGE** _____

THE GEO GROUP, INC. : **MAGISTRATE JUDGE** _____

NOTICE OF REMOVAL

The GEO Group, Inc., defendant in the proceeding entitled Teresa Breithaupt, et al v. The GEO Group, Inc., Civil Action No. 39025, filed in the 28th Judicial District Court, LaSalle Parish Louisiana, files this Notice of Removal and hereby removes this entire action to the United States District Court, Western District of Louisiana. A copy of this Notice of Removal has been served upon counsel for Teresa Breithaupt, Larry Breithaupt and Insurance Company of the State of Pennsylvania, plaintiffs, and a copy of this Notice of Removal is being filed with the Clerk of the referenced state court, in conformity with 28 U.S.C. § 1446(d).

Defendant respectfully submits that the grounds for removal of this action are as follows:

I.

The Petition for Damages in the state court proceeding entitled Teresa Breithaupt, et al v. The GEO Group, Inc., Civil Action No. 39025, was filed and is now pending in the 28th Judicial District Court, LaSalle Parish, Louisiana, which is within the territory of the United States District Court, Western District of Louisiana. Copies of all materials comprising the state court proceedings, including Plaintiffs' Petition for Damages, are attached hereto. As (1) plaintiffs, Teresa Breithaupt and Larry Breithaupt, are domiciled in LaSalle Parish, Louisiana; (2) the incident forming the basis of this litigation occurred in Jena, Louisiana; and (3) the state court action was filed in LaSalle Parish,

Louisiana, defendant has removed these proceedings to the Alexandria Division of this Court. See Local Rules for the United States District Court, Western District of Louisiana, Rule 77.3 (establishing Alexandria Division to include LaSalle Parish).

II.

Plaintiffs' Petition for Damages seeks recovery of monetary compensation arising from damages allegedly sustained by plaintiffs by virtue of negligent acts of defendant. At the time of the filing of the petition for damages, plaintiffs, Teresa Breithaupt and Larry Breithaupt, were residents and domiciliaries of the State of Louisiana and are, thus, citizens of the State of Louisiana. See Plaintiffs' Petition. Upon information and belief, plaintiff, Insurance Company of the State of Pennsylvania, is a foreign insurer domiciled in the State of New York.

III.

At the time of the filing of the Petition for Damages, and at all times relevant to these proceedings, defendant, The GEO Group, Inc., was, and remains, a corporate entity existing pursuant to the laws of the State of Florida that maintains its principle place of business in the State of Florida. Accordingly, complete diversity of citizenship between plaintiffs and defendants exists, and, as the amount in controversy can be expected with reasonable certainty under Louisiana law to exceed \$75,000, this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332. Accordingly, this action is properly removed to this Court pursuant to the provisions of 28 U.S.C. § 1441.

IV.

Plaintiffs' allegations, if accepted as true, may garner an award in excess of \$75,000, exclusive of interest and costs. Plaintiffs' claims arise from allegations that Teresa Breithaupt slipped and fell at a business operated by The GEO Group, Inc. See Plaintiffs' Petition, ¶ 4. As a result of that fall, Ms.

Breithaupt has alleged injuries to her right leg, right hip and lumbar spine. Id. at ¶ 8. Ms. Breithaupt seeks compensatory damages for pain and suffering, loss of enjoyment of life, past and future earnings and earning capacity, past and future medical expenses, physical disability and loss of physical function. Id. at ¶ 10.

V.

The fact that plaintiffs are seeking more than a minimum amount in controversy is apparent based upon the fact that plaintiffs failed to allege that an amount less than \$75,000 is being sought. While generally true under Louisiana law that a plaintiff may not allege a specific amount of damages, an important exception to that rule exists under Article 893 of the Louisiana Code of Civil Procedure, which specifically provides that:

The prayer for relief shall be for such damages as are reasonable in the premises except that if a specific amount of damages is necessary to establish the jurisdiction of the Court, the right to a jury trial, the lack of jurisdiction of federal courts due to insufficiency of damages, or for other purposes, a general allegation that the claim exceeds or is less than the requisite amount is required.

La.Code Civ.Pro.Art. 893(A)(1). Thus, if the amount of plaintiffs' alleged damages were in fact less than \$75,000, plaintiffs were required to allege that fact. Accordingly, defendant submits that it is facially apparent from plaintiffs' petition that the amount in controversy exceeds \$75,000, exclusive of interest and costs. See, Gebbia v. Wal-Mart Stores, Inc., 233 F.3d 880, 883 (5th Cir. 2000) (Plaintiff's petition seeking damages for medical expenses, pain and suffering, loss of enjoyment of life and permanent disability arising from injuries sustained in slip and fall was sufficient to establish amount in controversy requirement for removal purposes.).

VI.

This litigation was filed in the 28th Judicial District Court, LaSalle Parish, Louisiana on March

25, 2014. The GEO Group, Inc. first received notice of this suit on or about April 2, 2014. As such, this Notice of Removal, filed within thirty (30) days of the filing of plaintiffs' petition, is timely.

VII.

Promptly after filing this Notice of Removal, written notice of defendant's removal of these proceedings to this Court will be given to counsel for plaintiffs and will be filed with the Clerk for the 28th Judicial District Court, LaSalle Parish, Louisiana.

WHEREFORE, The GEO Group, Inc., defendant, prays that this notice of removal be deemed good and sufficient, and that the referenced Petition for Damages be removed from the 28th Judicial District Court, LaSalle Parish, Louisiana, to this Court for further proceedings. Thereafter, defendant prays that this action proceed as if the litigation had been commenced originally in this Court.

Respectfully submitted,

PLAUCHÉ, SMITH & NIESET, L.L.C.

By: s/ Samuel B. Gabb

SAMUEL B. GABB, #22378

1123 Pithon Street

Post Office Drawer 1705

Lake Charles, LA 70602

(337) 436-0522

Attorneys for The GEO Group, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have provided notice to all counsel of record via US Mail.

Lake Charles, Louisiana, this 7th day of April, 2014.

s/ Samuel B. Gabb

SAMUEL B. GABB